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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/578,633	05/09/2006	Becky Ellington	US030461US	1422

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS  
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Briarcliff Manor, NY 10510-8001

EXAMINER
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BRUTUS, JOEL F

ART UNIT	PAPER NUMBER
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3768

MAIL DATE	DELIVERY MODE
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03/02/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/578,633	<b>Applicant(s)</b> ELLINGTON ET AL.	
	<b>Examiner</b> JOEL F. BRUTUS	<b>Art Unit</b> 3768	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 February 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/1/10 has been entered.

### ***Double Patenting***

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

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3. Claims 1-15 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 7 and 11 of copending Application No. 10980569. Although the conflicting claims are not identical, they are not patentably distinct from each other because

Regarding examined claim 1, co-pending claim 1 teaches all of the limitations of examined claim 1.

Examined claim 1 use the position actuator; whereas the co-pending claim 1 uses a motive device.

However, both position actuator and motive device are actuators and are used for the same purpose.

Therefore, It is obvious to use position actuator in place of motive device; because they are the same things but different words.

Regarding claims 2-7, they are rejected for the same reason as set forth above because they depend on claim 1.

Regarding examined claim 8 and 13, co-pending claims 7 and 11 respectively teach all of their limitations except for the use of different wording.

Regarding claims 9-12 and 14-15, they are rejected because they depend on claims 8 and 13 respectively.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Raitzer et al (Pub. No.: 2005/0090740).

Regarding claims 1, 8 and 13, Raitzer et al disclose an ultrasonic diagnostic imaging system and method for scanning a volumetric object with a moving array transducer having a plurality of elements extending in an azimuth dimension and exhibiting an elevation dimension normal to the azimuth dimension [0003-0007] that anticipates the claimed invention. Raitzer et al teach a system includes an array transducer including an array of transducer elements, a motive device coupled to the array transducer, and a transmitter coupled to the array transducer [0015-0017].

Raitzer et al teach sweeping the array transducer in a forward and reverse directions [0014-0015], scanning a first and second sequence of scan planes which traverse the image region of the volumetric object where the sequence of scan planes comprises scanning a sequence of alternating angled scan planes which traverse the image region of the volumetric object [0015-0016, 0035-0036].

The beamformer is operable to adjust a scan plane position as a function of velocity variation of the mechanically rocked array [0018]. The array is swept in a forward, reverse or both a forward and reverse direction to acquire a data set representing the volume for three- or four-dimensional imaging [0023]. Raitzer et al teach overlapping of different scan line positions or locations where the beginning and end of each of the forward and reverse direction scans are aligned to occur at a same elevation position and overlap may occur at different locations [0035-36].

Regarding claims 2 and 9, all other limitations are taught as set forth by the above teaching.

Raitzer et al teach a motor 20 for moving the array in at least one direction. A mechanical linkage is provided in one embodiment for causing the array 22 to move in forward and reverse directions as represented by the arrows adjacent to the array 22 in fig 1; Alternatively, the motor 20 is operated in reverse and forward modes [see 0016]

Regarding claims 3-7 and 10-12, all other limitations are taught as set forth by the above teaching.

Raitzer et al teach transmitting sequences of beams from right to left in the azimuth direction and transmitting a sequence of beams from left to right in the azimuth direction [0032]. Raitzer et al ray line 56 indicates the elevation and azimuth position of the scan plane [see 0032-0033].

Regarding claims 14-15, all other limitations are taught as set forth by the above teaching.

Raitzer et al teach different scan line positions or locations of overlap may be provided. For example, the start or finish of each of the forward and reverse direction scans is aligned to occur at a same elevation position. The resulting scan provides two parallel planes with no overlap given a same velocity. Any of various possible alignments may be provided for having some or no overlap [see 0036-0037].

### ***Response to Arguments***

6. Applicant's arguments with respect to claims 1-15 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOEL F. BRUTUS whose telephone number is (571)270-3847. The examiner can normally be reached on Mon-Fri 7:30 AM to 5:00 PM (Off alternative Fri).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Long Le can be reached on (571)272-0823. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. F. B./  
Examiner, Art Unit 3768

/Long V Le/  
Supervisory Patent Examiner, Art Unit 3768